

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and Petition )	DOCKET NO. 900811-EI
Town of Golden Beach for Relief )	ORDER NO. 24800
From Alleged Insufficient, )	ISSUED: 7-11-91
Inadequate, and Unsafe Overhead )	
Electric Service Provided by )	
Florida Power and Light Company.)	

SUPPLEMENTAL ORDER ON PREHEARING PROCEDURE  
AND ORDER DENYING FPL'S MOTION TO STRIKE

BY THE COMMISSION:

On October 5, 1990, The Town of Golden Beach (Town or Golden Beach) filed a Complaint and Petition of Town of Golden Beach (Document No. 8995-90) which alleges that Florida Power and Light Company (FPL or Company) did not provide the Town with reasonably sufficient, adequate, efficient, and safe service, and which also alleges that FPL's dealings with the Town were not in good faith. To allow for the possibility of a settlement between Golden Beach and FPL, we stayed the proceedings until May 15, 1991. Unfortunately, the parties were not able to come to an agreement. A hearing is scheduled for October 23 and 24, 1991.

Golden Beach's Motion to Reschedule Filing of Testimony

On June 27, 1991, Golden Beach filed a Motion to Reschedule Filing of Testimony (Document No. 6486-91). FPL filed a response to this Motion on July 8, 1991 (Document No. 6836-91). The present schedule sets Petitioner's direct testimony due on July 10, 1991, Respondent's testimony due on July 24, 1991, and Rebuttal testimony due on August 7, 1991. Golden Beach asserts that the discovery phase of the case is not sufficiently complete for the Town to meet this time frame. FPL agrees that the testimony filing dates should be revised; however, the Company suggested a different schedule from the one suggested by Golden Beach.

Because the hearing is not scheduled until October 23 and 24, 1991, we will modify the testimony dates set in the Order on Prehearing Procedure, Order No. 24562, issued May 20, 1991. The revised testimony dates shall be:

Direct testimony	August 23, 1991
Response testimony	September 6, 1991
Rebuttal testimony	September 20, 1991

DOCUMENT NUMBER-DATE

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We note that the above dates are a compromise between the dates suggested by both parties.

Golden Beach's Motion to Hold Early Prehearing Conference

On June 27, 1991, Golden Beach also filed a Motion to Hold Early Prehearing Conference (Document No. 6486-91). FPL filed a response to this Motion on July 8, 1991 (Document No. 6836-91). Golden Beach asserts that an early prehearing conference would be appropriate to identify issues, potential witnesses, and discovery problems. FPL also recommends that we hold a prehearing conference prior to the filing of testimony to identify issues. We do not feel that an early prehearing conference would be appropriate at this time. Accordingly, we deny this motion.

However, we do note that there may be differences among the parties concerning the issues to be addressed at hearing. Therefore, we order Golden Beach and FPL to file Proposed Issues concerning this matter on or before July 26, 1991. These proposed issues shall be served on all parties of record.

In addition, we order Golden Beach and FPL to file any objections to the Proposed Issues on or before August 2, 1991. Any objections shall be served on all parties of record.

FPL'S Motion to Strike

On May 15, 1991, FPL filed a Motion to Strike (Document No. 4814-91) paragraphs 13, 14, 28, and 29 of Golden Beach's Complaint. Golden Beach filed a Memorandum in Opposition to Motion to Strike (Document No. 5348-91) on May 28, 1991.

We deny FPL's Motion to Strike paragraphs 13, 14, 28, and 29. We find that Golden Beach's Complaint and Petition meets the requirements of Rule 1.110(b), Florida Rules of Civil Procedure, and of Rule 25-22.036, Florida Administrative Code. We note that Golden Beach did attach Appendices to the Complaint and Petition, and we find that FPL is not required to respond to each page of the Appendices. We find that Golden Beach attached these appendices to demonstrate that the Town's claims were not meritless or frivolous, and to allow FPL an understanding of exactly what problems Golden Beach intends to address at the scheduled hearing. We find that FPL is required to respond to those claims asserted by Golden Beach

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in paragraphs 13, 14, 28, and 29 of the Complaint and Petition. We also note that before an exhibit may be given evidentiary treatment, it must be introduced at the hearing.

It is, therefore,

ORDERED by the Florida Public Service Commission that the testimony filing dates are revised as discussed in the body of this Order. It is further

ORDERED that the Town of Golden Beach's Motion to Hold Early Preliminary Prehearing Conference is hereby denied. It is further

ORDERED that Florida Power and Light Company and the Town of Golden Beach shall file Proposed Issues on or before July 26, 1991. It is further

ORDERED that Florida Power and Light Company and the Town of Golden Beach shall file any objections to the Proposed Issues on or before August 2, 1991. It is further

ORDERED that Florida Power and Light Company's Motion to Strike is hereby denied.

By ORDER of Commissioner Michael McK. Wilson, as Prehearing Officer, this 11th day of July, 1991.

  
MICHAEL MCK. WILSON, Commissioner  
and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.